

OLSHAN

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January 11, 2015

VIA ECF AND EMAIL

The Honorable Analisa Torres
United States District Court
Southern District of New York
500 Pearl Street
Chambers 2210, Courtroom 15-D
New York, NY 10007

Re: *Gemini Master Fund, Ltd. and Black Mountain Equities, Inc. v. OxySure Systems Inc.*, 15-cv-09546 (AT)

Dear Judge Torres:

We represent plaintiffs Gemini Master Fund, Ltd. (“Gemini”) and Black Mountain Equities, Inc. (“BME”). We respond to the letter motion filed Friday evening, January 8, 2016 by Mr. Sbaiti, counsel for defendant, requesting an extension of his time to file an opposition brief. In particular, we wish to correct the record regarding defendant’s claim that it received late notice of the motion. Defendant has had ample notice of both this action and plaintiffs’ motion for a preliminary injunction.

Defendant has had Ample Notice of Plaintiffs’ Motion

While defendant alleges service of the Summons and Complaint occurred on December 19, 2015, we in fact effectuated service on defendant’s registered agent in Delaware on December 9, 2015. (Docket No. 8) On December 21, 2015, I sent by overnight mail to Mr. Sbaiti and to defendant’s corporate office (i) copies of the Complaint; (ii) our letter requesting a pre-motion conference; and (iii) the Court’s Orders in the case, namely the Order setting a briefing schedule on the motion for a preliminary injunction and the Initial Pre-trial Conference Order. According to our UPS receipts, both sets of documents were received on December 22, 2015, not the following day when Mr. Sbaiti claims to have been out of the office. As a result, Mr. Sbaiti and his client were well aware of both the case and the briefing schedule before the Christmas holiday. My letter and the UPS receipts are annexed. I sent these materials to Mr. Sbaiti because I had earlier sent them to him electronically, using the email address “maizin@stecklerlaw.com,” without a response. Although I misspelled Mr. Sbaiti’s name, I received no error message stating that the email had not been delivered, as customarily appears with a defective email address. On December 30, 2015, I sent plaintiffs’ motion papers by

January 11, 2016

Page 2

overnight mail to Mr. Sbaiti and to defendant's corporate offices. They were accepted at Mr. Sbaiti's firm on December 31, 2015 and at defendant's offices on January 4, 2016. I also sent the materials electronically to Mr. Sbaiti, using the same email address as before. Again, I did not receive an error message.

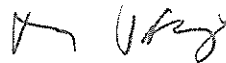
Mr. Sbaiti's suggestion that he learned of the preliminary injunction on January 4, 2016 is thus incorrect.

Proposed Revisions to the Schedule

Mr. Sbaiti's proposed briefing schedule, which leaves plaintiffs with one day to reply, is unfair and unworkable. Unfortunately, I am on trial on January 21, 2016, before a FINRA arbitration panel; the hearing was scheduled months ago. I therefore request a short adjournment of the oral argument date to either January 28 or January 29, 2016; dates that Mr. Sbaiti has advised are open for him. I further propose that defendant's motion to dismiss or transfer be heard at the same time. We request that plaintiffs have seven days (one week) to submit a reply to the opposition papers that Mr. Sbaiti files in response to our preliminary injunction motion.

The relief sought on plaintiffs' motion, the issuance of shares, is time sensitive, especially because defendant has failed to pay plaintiffs on their promissory notes, which matured on January 1, 2016. In the event the Court is unavailable on the dates that we have proposed, we therefore request the next available date on the Court's calendar.

Respectfully submitted,



Thomas J. Fleming

cc: Mazin Sbaiti (by email)
(Counsel for Defendant)

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December 21, 2015

VIA UPS

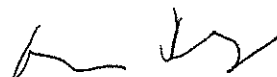
Julian T. Ross
Chairman and CEO
Oxysure Therapeutics, Inc.
10880 John W. Elliott Drive #600
Frisco, Texas 75033

Re: Gemini v. Oxysure

Dear Mr. Ross:

We are counsel for plaintiffs in the above matter. We previously served the Complaint upon Oxysure's registered agent in Delaware. As a courtesy, I enclose a copy. I also enclose the Court's order scheduling an Initial Pretrial Conference, its Order setting a briefing schedule for our motion for a preliminary injunction, and our letter to the Court requesting permission to file such a motion.

Sincerely,



Thomas J. Fleming

Enclosures

cc: Maizin Sbaiti, Esq. (w/enclosure)



Shipment Receipt

Transaction Date: 21 Dec 2015

Tracking Number:

1ZA2V6351390765855

1 Address Information			
Ship To: STECKLER LLP MAIZIN SBAMI, ESQ. 12720 HILLCREST ROAD, SUITE 1045 DALLAS TX 752302079 Telephone: 9723874040	Ship From: OLSHAN LLP OFFICE SERVICES 65 EAST 55TH STREET 3RD FLOOR NEW YORK NY 10022 Telephone: 2124512300 x373	Return Address: OLSHAN LLP OFFICE SERVICES 65 E 55TH ST NEW YORK NY 10022 Telephone: 2124512259	
2 Package Information			
Weight	Dimensions / Packaging	Declared Value	Reference Numbers
1. 0.5 lbs (1.0 lbs billable)	Other Packaging		Reference # 1 - 07437.010 Reference # 2 - TJF TJF
3 UPS Shipping Service and Shipping Options			
Service: Shipping Fees Subtotal: Transportation Fuel Surcharge	UPS Next Day Air Saver 51.57 USD 49.35 USD 2.22 USD	Additional Shipping Options Quantum View Notify E-mail Notifications: No Charge 1 tfleming@olshanlaw.com: Delivery 2 lowens@olshanlaw.com: Delivery	
4 Payment Information			
Bill Shipping Charges to:		Shipper's Account A2V635	
Charges:		51.57 USD	
Total Charged:		51.57 USD	

Note: Your invoice may vary from the displayed reference rates.

* For delivery and guarantee information, see the UPS Service Guide. To speak to a customer service representative, call 1-800-PICK-UPS for domestic services and 1-800-782-7892 for international services.


Tracking Summary

Tracking Numbers

Tracking Number:	1Z A2V 635 13 9076 585 5
Type:	Package
Status:	Delivered
Delivered On:	12/22/2015 12:27 P.M.
Delivered To:	DALLAS, TX, US
Signed By:	BACIAK
Service:	NEXT DAY AIR SAVER

Tracking results provided by UPS: 01/07/2016 11:27 P.M. ET

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Shipment Receipt

Transaction Date: 21 Dec 2015

Tracking Number:

1ZA2V6351392849841

1 Address Information

Ship To:
 OXYSURE THERAPEUTICS, INC.
 JULIAN T. ROSS
 10880 JOHN W. ELLIOTT DRIVE #600
 FRISCO TX 750333281
 Telephone: 9722946450

Ship From:
 OLSHAN LLP
 OFFICE SERVICES
 65 EAST 55TH STREET
 3RD FLOOR
 NEW YORK NY 10022
 Telephone: 2124512300
 x373

Return Address:
 OLSHAN LLP
 OFFICE SERVICES
 65 E 55TH ST
 NEW YORK NY 10022
 Telephone: 2124512259

2 Package Information

Weight	Dimensions / Packaging	Declared Value	Reference Numbers
1. 0.5 lbs (1.0 lbs billable)	Other Packaging		Reference # 1 - 07437-010 Reference # 2 - TJF TJF

3 UPS Shipping Service and Shipping Options

Service:	UPS Next Day Air Saver		
Shipping Fees Subtotal:	51.57 USD	Additional Shipping Options	
Transportation	49.35 USD	Quantum View Notify E-mail Notifications:	No Charge
Fuel Surcharge	2.22 USD	1 tfleming@olshanlaw.com: Delivery	
		2 lowens@olshanlaw.com: Delivery	

4 Payment Information

Bill Shipping Charges to:	Shipper's Account A2V635
Charges:	51.57 USD
Total Charged:	51.57 USD

Note: Your invoice may vary from the displayed reference rates.

* For delivery and guarantee information, see the UPS Service Guide. To speak to a customer service representative, call 1-800-PICK-UPS for domestic services and 1-800-782-7892 for international services.


Tracking Summary

Tracking Numbers

Tracking Number:	1Z A2V 635 13 9284 984 1
Type:	Package
Status:	Delivered
Delivered On:	12/22/2015 11:04 A.M.
Delivered To:	FRISCO, TX, US
Signed By:	TAR
Service:	NEXT DAY AIR SAVER

Tracking results provided by UPS: 01/07/2016 11:25 P.M. ET

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